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(USA) N.A.*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Kathryn Durst, an individual,

Plaintiff,

vs.

Capital One Bank (USA) N.A.,

Defendant.

Case Number: 3:18-cv-00265-LRH-WGC

**STIPULATION OF VOLUNTARY
DISMISSAL PURSUANT TO
FED.R.CIV.P. 41(a)(1)(A)(ii), WITH
PREJUDICE**

NOW COME, Plaintiff, Kathryn Durst, and Defendant, Capital One Bank (USA), N.A.,
through their respective undersigned attorneys, and respectfully state and pray:

1. On June 6, 2018, Plaintiff filed the complaint in this case (Dkt. 1).
2. On August 14, 2018, Defendant answered the complaint (Dkt. 15).

3. Federal Rule of Civil Procedure 41 provides, in relevant part:

(a) Voluntary Dismissal.

(1) *By the Plaintiff.*

(A) *Without a Court Order.* Subject to Rules 23(e), 23.1(c), 23.2, and 66 and any applicable federal statute, the plaintiff may dismiss an action without a court order by filing:

(i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or

(ii) a stipulation of dismissal signed by all parties who have appeared.

(B) *Effect.* Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal-or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.”

Fed.R.Civ.P. 41, 28 U.S.C. (emphasis added).

4. The parties have settled the instant matter through private agreement.

5. Pursuant to Fed.R.Civ.P. 41(a)(1)(A)(ii), the parties respectfully stipulate to the voluntary dismissal of the Complaint, with prejudice.

WHEREFORE, the parties respectfully request this Honorable Court to GRANT the instant request for voluntary dismissal of the present case with prejudice.

RESPECTFULLY SUBMITTED on January 10, 2019.

Dated this 10th day of January, 2019.

By: /s/ Mathew K. Higbee

Mathew K. Higbee, Esq., SBN 11158
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By: /s/ Taylor Anello

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By: /s/ Carlos C. Alsina

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CERTIFICATE OF SERVICE

The undersigned, an employee of Dickinson Wright PLLC, hereby certifies that on this same day, the foregoing document was served electronically to the following parties of interest through the Court's CM/ECF system to:

Taylor Anello, Esq.
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Las Vegas, Nevada 89113-2210
*Attorneys for Defendant Capital One Bank
(USA) N.A.*

Dated: January 10, 2019

/s/ Carlos C. Alsina
Attorney for Plaintiff, Kathryn Durst
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